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Occupational Therapy Advisory Council Law

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45:9-37.51. Short title

1. This act shall be known and may be cited as the "Occupational Therapy Licensing Act."

L.1993,c.85,s.1.

45:9-37.52. Findings, declarations on regulating occupational therapy services

2. The Legislature finds and declares that it is necessary to regulate persons offering occupational therapy services to safeguard the public health, safety, and welfare and to protect the public from incompetent, unscrupulous and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to guarantee the availability of occupational therapy services of high quality to persons in need of those services.

L.1993,c.85,s.2.

45:9-37.53. Definitions

3. As used in this act:

"Council" means the Occupational Therapy Advisory Council established pursuant to section 4 of this act.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Occupational therapist" means a person licensed to practice occupational therapy pursuant to the provisions of this act.

"Occupational therapy" means the evaluation, planning and implementation of a program of purposeful activities to develop or maintain functional skills necessary to achieve the maximal physical or mental functioning, or both, of the individual in his daily occupational performance. The tasks of daily living may be threatened or impaired by physical injury or illness, developmental deficits, sensorimotor dysfunction, psychological and social dysfunction, the aging process, poverty, or cultural deprivation. Occupational therapy utilizes task oriented activities adapted to prevent or correct physical or emotional deficits as well as to minimize the disabling effects of those deficits on the life of the individual. Occupational therapy services include the use of specific techniques which enhance functional performance and include, but are not limited to, the evaluation and assessment of an individual's self care, lifestyle performance patterns, work skills, performance related cognitive, sensory, motor, perceptual, affective, interpersonal and social functioning, vocational and prevocational capacities, the design, fabrication and application of adaptive equipment or prosthetic or orthotic devices, excluding dental devices, the administration of standardized and nonstandardized assessments, and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational and social systems.

"Occupational therapy assistant" means a person licensed pursuant to the provisions of this act to assist in the practice of occupational therapy under the supervision of or in collaboration with an

occupational therapist on a regularly scheduled basis for the purpose of the planning, review or evaluation of occupational therapy services.

"Purposeful activities" means acts and occupations of craftsmanship and workmanship, as well as creative, educational, or other activities, which in whole or in part are used to correct, compensate for or prevent dysfunction in the tasks and activities of everyday living, and which simultaneously incorporate personally and culturally relevant biological, psychological and social elements that produce positive adaptation and motivational behavior.

"Supervision" means the responsible and direct involvement of a licensed occupational therapist with an occupational therapy assistant for the development of an occupational therapy treatment plan and the periodic review of the implementation of that plan. The form and extent of the supervision shall be determined by the council.

"Task oriented activities" means purposeful activities having an explicit, observable and measurable short-term goal which contributes to the well-being of self or others.

L.1993,c.85,s.3.

45:9-37.54. Occupational Therapy Advisory Council

4. There is established in the Division of Consumer Affairs in the Department of Law and Public Safety an Occupational Therapy Advisory Council appointed by the Governor, with the advice and consent of the Senate, which shall serve as an advisory body to the Director of the Division of Consumer Affairs. The council shall consist of seven members who are residents of the State, four of whom shall be licensed occupational therapists having at least five years of experience in occupational therapy in this State immediately preceding appointment, one of whom shall be a licensed occupational therapy assistant having at least five years of experience in occupational therapy in this State immediately preceding appointment, and two of whom shall be public members. The first occupational therapist and occupational therapy assistant members shall be qualified for licensure pursuant to the provisions of this act.

Except for those first appointed, members shall serve for a term of three years. Each member shall hold office until the appointment of his successor. A vacancy in the office of any member shall be filled for the unexpired term only. The initial appointment to the council shall be two members for terms of one year, two members for terms of two years, and three members for terms of three years. No member shall serve more than two successive terms.

The Governor may remove any council member for misconduct, incompetency or neglect of duty after providing the council member with a written statement of charges and an opportunity for a hearing thereon.

L.1993,c.85,s.4.

45:9-37.55. Oath; officers; meetings

5. The members of the council, before entering the discharge of their duties, and within 30 days after their appointment, shall take and subscribe to an oath before an officer authorized to administer

oaths in this State for the faithful performance of their duties and file the oath with the Secretary of State. The members of the council shall annually elect from their number a chairman and a vice-chairman each of whom shall hold office for one year and until a successor is elected and qualified.

Regular meetings of the council shall be held at such times and places as it prescribes and special meetings may be held upon the call of the chairman or the director. At least two regular meetings shall be held each year.

L.1993,c.85,s.5.

45:9-37.56. Provision of facilities, personnel; reimbursement for expenses

6. The Attorney General shall provide the director with such facilities and personnel as shall be required for the proper administration of this act and may authorize reimbursement of the members of the council for their actual expenses incurred in connection with the performance of their duties as members of the council.

L.1993,c.85,s.6.

45:9-37.57. Powers of director

7. In addition to such other powers and duties as the director may possess by law, the director shall:

- a. Administer, coordinate and enforce the provisions of this act and delegate, at the director's discretion, to the council one or more of the director's powers or duties authorized pursuant to this act;
- b. Evaluate the qualifications of applicants for licensure under this act as an occupational therapist or occupational therapy assistant and administer or approve in consultation with the council the examinations for licensure as an occupational therapist or occupational therapy assistant and issue a license to each qualified applicant;
- c. Investigate allegations of practices violating the provisions of this act;
- d. Establish standards relating to professional conduct, qualifications for professional licensure, ethical standards, and disciplinary proceedings;
- e. Maintain a record of every occupational therapist and occupational therapy assistant licensed in this State, their places of business, places of residence and the date and number of their licenses;
- f. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;
- g. Do any and all things which may be appropriate to achieve the objectives contemplated by this act.

L.1993,c.85,s.7.

45:9-37.58. Notification of practitioners

8. Within 90 days of the effective date of this act, the director shall make reasonable efforts to notify all occupational therapy practitioners currently practicing in this State of the provisions of this act and the requirement for licensure under the act by sending notice to all licensed health care facilities and to appropriate trade associations.

L.1993,c.85,s.8.

45:9-37.59. Licensing required for occupational therapists

9. a. No person shall practice occupational therapy, whether or not compensation is received or expected, or represent himself as an occupational therapist or occupational therapy assistant, unless the person holds a valid license to practice in this State.

b. Only an individual may be licensed to practice occupational therapy within the State. No firm, partnership, association or corporation may advertise or otherwise offer to provide or convey the impression that it is providing occupational therapy services unless an individual holding a current valid license pursuant to the provisions of this act shall be rendering the occupational therapy services.

L.1993,c.85,s.9.

45:9-37.60. Construction of act

10. The provisions of this act shall not be construed to prevent the following provided that no word, letter, abbreviation, insignia, sign, card or device is used to convey the impression that the person rendering the service is a licensed occupational therapist or occupational therapy assistant:

a. Any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed;

b. Any person employed as an occupational therapist or occupational therapy assistant by the federal government, if the person provides occupational therapy services solely under the direction or control of the organization by which he is employed;

c. Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program if the pursuit is part of a supervised course of study and if the person is designated by a title which clearly indicates status as a student or trainee;

d. Any person fulfilling the supervised fieldwork experience requirements of sections 11 and 12 of this act, if the activities and the services are a part of the experience necessary to meet the requirements of those sections;

e. Any person performing occupational therapy services in this State if those services are performed for no more than 60 days in a calendar year in association with an occupational therapist licensed pursuant to this act provided that the person is regulated by the laws of another state which has regulatory requirements which are equivalent to those of this State.

L.1993,c.85,s.10.

45:9-37.61. Requirements for licensure as occupational therapist

11. To be eligible for licensure as an occupational therapist, an applicant shall fulfill the following requirements:

- a. Be at least 18 years of age;
- b. Be of good moral character;
- c. Present evidence to the director of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council, and accredited by the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency;
- d. Submit to the director evidence of having successfully completed at least 24 weeks of supervised fieldwork experience approved by the educational institution at which the applicant completed the occupational therapy educational program; and
- e. Successfully complete an examination administered or approved by the director, in consultation with the council, to determine the applicant's competence to practice occupational therapy.

L.1993,c.85,s.11.

45:9-37.62. Requirements for licensure as occupational therapy assistant

12. To be eligible for licensure as an occupational therapy assistant, an applicant shall fulfill the following requirements:

- a. Be at least 18 years of age
- b. Be of good moral character;
- c. Present evidence to the director of having successfully completed the academic requirements of an educational program in occupational therapy approved by the director, in consultation with the council;
- d. Submit to the director evidence of having successfully completed at least 12 weeks of supervised fieldwork experience approved by the educational institution at which the applicant completed the occupational therapy educational program; and
- e. Successfully complete an examination administered or approved by the director, in consultation with the council, to determine the applicant's competence to practice occupational therapy.

L.1993,c.85,s.12.

45:9-37.63. Examinations

13. The examinations required by sections 11 and 12 of this act shall test the applicant's knowledge of basic and clinical sciences as they relate to occupational therapy, occupational therapy techniques and methods, and any other subjects the director, in consultation with the council, may require to determine the applicant's fitness to practice occupational therapy. Examinations shall be held within the State at least twice a year at a time and place to be determined by the director, in consultation with the council. The director shall give adequate written notice of the examination to applicants for licensure and examination. An applicant who fails an examination may apply for re-examination upon payment of the prescribed fee.

L.1993,c.85,s.13.

45:9-37.64. Issuance of license

14. a. The director, in consultation with the council, shall issue a license to any applicant who has satisfactorily met all the requirements of this act. No license shall be issued to an applicant if the applicant has: (1) committed any act which if committed by a licensee would be grounds for suspension or revocation; or (2) misrepresented any material fact on the applicant's application.

b. Except in the case of a temporary license issued pursuant to section 17 of this act, all licenses shall be issued for a two-year period upon the payment of the licensing fee prescribed by the director, and shall be renewed upon the filing of a renewal application and the payment of a licensing renewal fee. The director may provide for the late renewal of a license upon the payment of a late fee in accordance with rules and regulations, but no late renewal of a license may be granted more than five years after its expiration.

c. A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the director or the council shall promptly deliver the original license and current biennial registration to the council.

L.1993,c.85,s.14.

45:9-37.65. Licensing without examination

15. For one year following the date procedures for licensure are established by the council, any person who is practicing or residing in this State shall be licensed by the director without examination upon completion of a licensing application and the payment of the appropriate fee if the applicant is certified or registered prior to the effective date of this act by a nationally recognized professional association of occupational therapists approved by the director, except that no license shall be issued to an applicant if the applicant has: a. committed any act which if committed by a licensee would be grounds for suspension or revocation; or b. misrepresented any material fact on the applicant's application. The director may waive the examination for licensure under this act and grant a license to

any person who is certified or registered after the effective date of this act by a nationally recognized professional association of occupational therapists approved by the director, if the director, in consultation with the council, determines the requirements for certification or registration are substantially equivalent to the requirements for licensure.

L.1993,c.85,s.15.

45:9-37.66. Waiving of examination

16. Upon payment to the director of a fee and the submission of a written application on forms provided by the director, the director may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state or territory of the United States or the District of Columbia which has standards substantially equivalent to those of this State as determined by the director, in consultation with the council.

L.1993,c.85,s.16.

45:9-37.67. Issuance of temporary license

17. Upon payment to the director of a fee and the submission of a written application on forms provided by the director, the director shall issue a temporary license to a person who has applied for licensure pursuant to this act and who, in the judgment of the director, in consultation with the council, is eligible for licensure pursuant to section 11 or section 12 of this act. A temporary license shall be available to an applicant with his initial application for examination and he may practice only under the direct supervision of a licensed occupational therapist. A temporary license shall expire automatically upon the holder being notified of failure of the licensure examination. The temporary license may be renewed for an additional period until the results of the next licensure examination at which time it shall automatically expire and be surrendered to the director.

L.1993,c.85,s.17.

45:9-37.68. Inactive license status

18. The director may grant inactive license status to a licensee who: a. is not actively practicing as an occupational therapist or an occupational therapy assistant; b. does not represent himself as an occupational therapist or an occupational therapy assistant; and c. completes any continuing education requirements which may be established by the director, in consultation with the council.

L.1993,c.85,s.18.

45:9-37.69. Examination of foreign trained applicants

19. A foreign trained occupational therapist or occupational therapy assistant shall satisfy the examination requirements of this act. Prior to taking the examination, the director shall require a

foreign trained applicant to furnish proof of good moral character and the completion of educational and supervised fieldwork requirements substantially equivalent to those of this State.

L.1993,c.85,s.19.

45:9-37.70. Fees

20. The director, in consultation with the council, shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services. Licenses shall be renewed on a biennial basis and shall be renewed upon payment to the director of a renewal fee accompanied by a renewal application on a form prescribed by the director.

The revenue generated from these fees shall not exceed the operating costs of the director and the council required for the implementation of this act.

L.1993,c.85,s.20.

45:9-37.71. Fees, civil penalties deposited in General Fund

21. All fees and any civil penalties imposed by the director shall be forwarded to the State Treasurer and shall be deposited in the General Fund. All expenditures deemed necessary to carry out the provisions of this act shall be paid by the State Treasurer from the funds collected and forwarded by the director subject to, and within the limits of, appropriations made pursuant to law, but expenditures shall not exceed revenues from the operation of this act during any fiscal year.

L.1993,c.85,s.21.

45:9-37.72. Restoration of license

22. The director, in consultation with the council, may restore a license after one year from the date of its revocation. The director shall hold a hearing to consider any application for reinstatement.

L.1993,c.85,s.22.

45:9-37.73. Applicability of uniform enforcement law

23. The provisions of the uniform enforcement law, P.L.1978, c.73 (C.45:1-14 et seq.) shall apply to this act and the director shall be deemed to have all authority granted to any board under that act. The authority of the director may be delegated to the council at the discretion of the director.

If any person practices without a valid license or holds himself out as being able to practice occupational therapy in violation of section 9 of this act, each day during which the violation continues shall constitute an additional and separate and distinct offense for the purposes of this section.

L.1993,c.85,s.23.

45:9-37.74. Inapplicability of act

24. Nothing in this act shall authorize: the diagnosis of disease or the practice of medicine and surgery by any person not licensed to do so pursuant to chapter 9 of Title 45 of the Revised Statutes; the practice of psychology by a person not licensed to do so pursuant to the "Practicing Psychology Licensing Act," P.L.1966, c.282 (C.45:14B-1 et seq.); the practice of chiropractic by a person not licensed to do so pursuant to the "Chiropractic Board Act," P.L.1989, c.153 (C.45:9-41.17 et al.); the practice of nursing by a person not licensed to do so pursuant to the provisions of P.L.1947, c.262 (C.45:11-23 et seq.); or the practice of physical therapy by a person not licensed to do so pursuant to the "Physical Therapist Licensing Act of 1983," P.L.1983, c.296 (C.45:9-37.11 et seq.) except the practice of occupational therapy as defined in section 3 of this act.

L.1993,c.85,s.24.

45:9-37.75. Regulations

25. The director, in consultation with the council, shall adopt, amend or repeal regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

L.1993,c.85,s.25.